

**KANSAS VETERINARY
PRACTICE ACT
July 1999 REVISION**

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**KANSAS VETERINARY
PRACTICE ACT
Chapter 47, Article 8
July, 1, 1999**

47-814. Purpose of act. In order to promote the public health, safety and welfare, the legislature hereby declares that the practice of veterinary medicine is a privilege granted to persons possessed of the personal and professional qualifications specified in this act.

History: L. 1969, ch. 261, § 1; L. 1993, ch. 129, § 1; July 1.

47-815. Short title. K.S.A. 47-814 through 47-854, and amendments thereto, shall be known and may be cited as the Kansas veterinary practice act.

History: L. 1969, ch. 261, § 2; L. 1993, ch. 129, § 2; July 1.

47-816. Definitions. As used in the Kansas veterinary practice act:

(a) "Animal" means any mammalian animal other than human and any fowl, bird, amphibian, fish or reptile, wild or domestic, living or dead.

(b) "Board" means the state board of veterinary examiners.

(c) "Clock hour of continuing education" means 60 minutes of participation in a continuing education program or activity which meets the minimum standards for continuing education according to rules and regulations adopted by the board.

(d) "Direct supervision" means the supervising licensed veterinarian:

(1) Is on the veterinary premises or in the same general area in a field setting;

(2) is quickly and easily available;

(3) examines the animal prior to delegating any veterinary practice activity to the supervisee and performs any additional examination of the animal required by good veterinary practice; and

(4) delegates only those veterinary practice activities which are consistent with rules and regulations of the board regarding employee supervision.

(e) "Licensed veterinarian" means a veterinarian who is validly and currently licensed to practice veterinary medicine in this state.

(f) "Indirect supervision" means that the supervising licensed veterinarian:

(1) Is not on the veterinary premises or in the same general area in a field setting, but has examined the animal and provided either written or documented oral instructions or a written protocol for treatment of the animal patient, except that in an emergency, the supervising licensed

veterinarian may provide oral instructions prior to examining the animal and subsequently examine the animal and document the instruction in writing;

(2) delegates only those veterinary practice tasks which are consistent with the rules and regulations of the board regarding employee supervision; and

(3) the animal being treated is not anesthetized as defined in rules and regulations.

(g) "Practice of veterinary medicine" means any of the following:

(1) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury or other physical or mental condition; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthesia or other therapeutic or diagnostic substance or technique on any animal including but not limited to acupuncture, surgical or dental operations, animal psychology, animal chiropractic, theriogenology, surgery, including cosmetic surgery, any manual, mechanical, biological or chemical procedure for testing for pregnancy or for correcting sterility or infertility or to render service or recommendations with regard to any of the above and all other branches of veterinary medicine.

(2) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in paragraph (1).

(3) To use any title, words, abbreviation or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in paragraph (1). Such use shall be prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine.

(4) To collect blood or other samples for the purpose of diagnosing disease or conditions. This shall not apply to unlicensed personnel employed by the United States department of agriculture, the Kansas animal health department or the state board of agriculture who are engaged in such personnel's official duties.

(5) To apply principles of environmental sanitation, food inspection, environmental pollution control, animal nutrition, zoonotic disease control and disaster medicine in the promotion and protection of public health in the performance of any veterinary service or procedure.

(h) "School of veterinary medicine" means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent, which conforms to the standards required for accreditation by the American veterinary medical association and which is recognized and approved by the board.

(i) "Veterinarian" means a person who has received a doctor of veterinary medicine degree or the equivalent from a school of veterinary medicine.

(j) "Veterinary medical specialist" means a person who has completed advanced training in such person's specialty area and is a diplomat of such specialty.

(k) "Veterinary premises" means any premises or facility where the practice of veterinary medicine occurs, including but not limited to, a mobile clinic, outpatient clinic, satellite clinic or veterinary hospital or clinic, but shall not include the premises of a veterinary client, research facility, a federal military base, Kansas state university college of veterinary medicine or any premises wherein the practice of veterinary medicine occurs no more than three times per year as a public service outreach of a registered veterinary premises.

(l) "Graduate veterinary technician" means a person who has graduated from an American veterinary medical association accredited school approved by the board.

(m) "Registered veterinary technician" means a person who is a graduate veterinary technician, has passed the examinations required by the board for registration and is registered by the board.

(n) "Veterinary-client-patient relationship" means:

(1) The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal or animals and the need for medical treatment, and the client, owner or other caretaker has agreed to follow the instruction of the veterinarian;

(2) there is sufficient knowledge of the animal or animals by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal or animals. This means that the veterinarian has recently seen or is personally acquainted with the keeping and care of the animal or animals by virtue of an examination of the animal or animals, or by medically appropriate and timely visits to the premises where the animal or animals are kept, or both; and

(3) the practicing veterinarian is readily available for followup in case of adverse reactions or failure of the regimen of therapy.

(o) "ECFVG certificate" means a certificate issued by the American veterinary medical association education commission for foreign veterinary graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited or approved college of veterinary medicine.

(p) "Veterinary prescription drugs" means such prescription items as defined by subsection (f) of 21 U.S.C. Sec. 353, as in effect on July 1, 2001.

(q) "Veterinary corporation" means a professional corporation of licensed veterinarians incorporated under the professional corporation act of Kansas, cited at K.S.A. 17-2706 *et seq.*, and amendments thereto.

(r) "Veterinary partnership" means a partnership pursuant to the Kansas uniform partnership act, cited at K.S.A. 2002 Supp. 56a-101 *et seq.*, and amendments thereto, formed by licensed veterinarians engaged in the practice of veterinary medicine.

(s) "Person" means any individual, corporation, partnership, association or other entity.

History: L. 1969, ch. 261, § 3; L. 1980, ch. 155, § 1; L. 1993, ch. 129, § 3; L. 1997, ch. 1, § 1; L. 1998, ch. 93, § 72; L. 1999, ch. 25, § 1; L. 2001, ch. 30, § 1; July 1.

47-817. Practice without license prohibited; exceptions.

No person shall practice veterinary medicine in this state who is not currently and validly a licensed veterinarian. This act shall not be construed to prohibit:

(a) An employee of the federal, state or local government performing such employee's official duties.

(b) A person from gratuitously giving aid, assistance or relief in veterinary emergency cases if such person does not represent themselves to be veterinarians or use any title or degree appertaining to the practice thereof.

(c) A veterinarian regularly licensed in another state consulting with a licensed veterinarian in this state.

(d) Fisheries biologists actively employed by the state of Kansas, the United States government, or any person in the production or management of commercial food or game fish while in the performance of such persons' official duties.

(e) Any feeder utilizing and mixing antibiotics or other disease or parasite preventing drugs as a part of such feeder's feeding operations.

(f) The owner of an animal and the owner's regular employee caring for and treating the animal belonging to such owner, except where the ownership of the animal was transferred to avoid this act.

(g) A member of the faculty of a school of veterinary medicine performing such member's regular functions or a person lecturing, or giving instructions or demonstrations at a school of veterinary medicine or in connection with a continuing education course for veterinarians.

(h) Any person engaging in bona fide scientific research which reasonably requires experimentation involving animals or commercial production of biologics or animal medicines.

(i) A nonstudent employee, independent contractor or any other associate of the veterinarian or a student in a school of veterinary medicine who has not completed at least three years of study and who performs prescribed veterinary procedures under the direct supervision of a licensed veterinarian or under the indirect supervision of a licensed veterinarian pursuant to rules and regulations of the board.

(j) A student who has completed at least three years of study in a school of veterinary medicine and who performs

prescribed veterinary procedures assigned by such student's instructors or who works under direct or indirect supervision of a licensed veterinarian.

History: L. 1969, ch. 261, § 4; L. 1980, ch. 155, § 2; L. 1993, ch. 129, § 4; L. 1999, ch. 25, § 2; July 1.

47-818. State board of veterinary examiners; appointment; terms; vacancies; qualifications; removal by governor.

(a) In order to promote the public health, safety and welfare in relation to the practice of veterinary medicine, there is hereby established the state board of veterinary examiners which shall consist of seven members, six of whom shall be licensed veterinarians and one member who shall not be a veterinarian. Upon the expiration of any member's term, the governor shall appoint a successor to ensure the representation of the major facets of veterinary medical practice for a term of four years, which term shall commence on July 1 and shall expire on June 30. Before entering into a term of office, each member of the board shall file with the secretary of state a written oath to discharge the member's duties in a faithful manner.

(b) The procedure for appointing members of the board under this act shall be as follows:

(1) The board of directors of the Kansas veterinary medical association shall submit the names of three or more, or any other person may submit the name of one or more qualified veterinarians to the governor at least 30 days before the expiration of the term of any member of the board who is a licensed veterinarian. The governor may appoint one of the persons whose name is so submitted to the veterinarian member's seat.

(2) A vacancy occurring on the board prior to expiration of the term of a member who is a veterinarian shall be filled for the remainder of the unexpired term in the same manner as prescribed in paragraph (1) of this subsection (b).

(c) No person shall be qualified to serve as a veterinarian member of the board unless such person:

(1) Is a legal resident of the state of Kansas;

(2) is a graduate of a board-approved school of veterinary medicine;

(3) is licensed to practice veterinary medicine in this state; and

(4) has had three years of actual practice in veterinary medicine in the state of Kansas preceding the time of appointment.

(d) No person shall be qualified to serve as the nonveterinarian member of the board unless such person:

(1) Has been a legal resident of the state of Kansas for three or more years;

(2) is not a family member, as defined in K.A.R. 19-40-4 and amendments thereto of a veterinarian;

(3) has no financial interest in any veterinary practice or veterinary premises as an owner or employee, or as a family member of an owner or employee, of such practice or premises; and

(4) has never engaged in the profession or business of educating or training veterinarians or students of veterinary medicine.

(e) The governor may remove any member of the board upon recommendation of the board.

History: L. 1969, ch. 261, § 5; L. 1978, ch. 308, § 50; L. 1980, ch. 155, § 3; L. 1981, ch. 299, § 49; L. 1993, ch. 129, § 5; L. 1999, ch. 25, § 3; July 1.

47-819. State board of veterinary examiners; meetings; quorum; officers, election and duties; compensation and expenses.

(a) The board shall meet each year at such times and places as specified by the board.

(b) Except as otherwise provided in this act, a majority of the board shall constitute a quorum.

(c) At its first meeting following April 1 of each year, the board shall organize by electing a president and a vice-president. Each officer so elected shall serve for a term of one year or until a successor is elected and qualifies. A special election shall be held whenever a vacancy occurs in an office of the board.

(d) In general, but not by way of limitation, the officers and the executive director of the board shall have and exercise the following powers and duties:

(1) The president's duties shall include the calling of and presiding at meetings of the board.

(2) The vice-president's duties shall include serving as presiding officer at meetings of the board in the absence of the president or upon the president's inability or refusal to act and overseeing budgetary and financial aspects of the operation of the board.

(3) The executive director shall perform duties which shall include carrying on the correspondence of the board, keeping permanent accounts and records of all receipts and disbursements by the board and of all board proceedings, including the disposition of all applications for license, keeping a register of all persons currently licensed by the board, and furnishing a copy of the Kansas veterinary practice act to each newly licensed veterinarian. All board records, except as otherwise provided by law, shall be open to the public during regular office hours.

(4) The executive director shall be bonded as required by the state surety bond committee pursuant to K.S.A. 75-4103 to 75-4106, and amendments thereto.

(e) Each member of the board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto, when engaged in the performance of the member's

official duties or other board business or board activities away from the member's place of residence.

History: L. 1969, ch. 261, § 6; L. 1974, ch. 348, § 19; L. 1980, ch. 155, § 5; L. 1993, ch. 129, § 6; L. 1999, ch. 25, § 4; July 1.

47-820. Disposition of moneys; veterinary examiners fee fund. The board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the veterinary examiners fee fund. Costs relating to assessment and enforcement of civil fines shall be credited to the veterinary examiners fee fund from all moneys received that are civil fines and the balance shall be credited to the state general fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director or by a person or persons designated by the executive director.

History: L. 1969, ch. 261, § 7; L. 1973, ch. 309, § 16; L. 1993, ch. 129, § 7; L. 2001, ch. 5, § 165; July 1.

47-821. Powers of board. (a) In general, but not by way of limitation, the board shall have power to:

(1) Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in this state in accordance with K.S.A. 47-824 and 47-826, and amendments thereto.

(2) Inspect and register any veterinary premises pursuant to K.S.A. 47-840, and amendments thereto, and take any disciplinary action against the holder of a registration of a premises issued pursuant to K.S.A. 47-840, and amendments thereto.

(3) Issue, renew, deny, limit, condition, fine, reprimand, restrict, suspend or revoke licenses to practice veterinary medicine in this state or otherwise discipline licensed veterinarians consistent with the provisions of this act and the rules and regulations adopted thereunder.

(4) Conduct an investigation upon an allegation by any person that any licensee or other veterinarian has violated any provision of the Kansas veterinary practice act or any rules and regulations adopted pursuant to such act. The board may appoint individuals and committees to assist in any investigation.

(5) Establish and publish annually a schedule of fees authorized pursuant to and in accordance with the provisions of K.S.A. 47-822 and amendments thereto.

(6) Employ full time or part time an executive director and such professional, clerical and special personnel as shall be necessary to carry out the provisions of this act. The board shall fix the compensation of such personnel who shall be in the unclassified service under the Kansas civil service act. Under the supervision of the board, the executive director shall perform such duties as may be required by law or authorized by the board.

(7) Purchase or rent necessary office space, equipment and supplies.

(8) Appoint from its own membership one or more members to act as representatives of the board at any meeting within or without the state where such representation is deemed desirable.

(9) Initiate the bringing of proceedings in the courts for the enforcement of this act.

(10) Adopt, amend or repeal rules and regulations for licensed veterinarians regarding the limits of activity for assistants and registered veterinary technicians who perform prescribed veterinary procedures under the direct or indirect supervision and responsibility of a licensed veterinarian.

(11) Adopt, amend or repeal such rules and regulations, not inconsistent with law, as may be necessary to carry out the purposes of this act and enforce the provisions thereof.

(12) Have a common seal.

(13) Adopt, amend or repeal rules and regulations to fix minimum standards for continuing veterinary medical education, which standards shall be a condition precedent to the renewal of a license under this act.

(14) Register veterinary technicians.

(15) Establish any committee necessary to implement any provision of this act including, but not limited to, a continuing education committee and a peer review committee. Such committees may be formed in conjunction with professional veterinary associations in the state. Members of such committees appointed by the board shall receive the same privileges and immunities and be charged with the same responsibilities of activity and confidentiality as board members.

(16) Refer complaints to a duly formed peer review committee of a duly appointed professional association.

(17) Establish, by rules and regulations, minimum standards for the practice of veterinary medicine.

(18) Contract with a person or entity to perform the inspections or reinspections as required by K.S.A. 47-840.

(19) For the purpose of investigations and proceedings conducted by the board, the board may issue subpoenas compelling the attendance and testimony of veterinarians or the production for examination or copying of documents or any other physical evidence if such evidence relates to veterinary competence, unprofessional conduct, the mental or physical ability of a licensee to safely practice veterinary

medicine or the condition of a veterinary premises. Within five days after the service of the subpoena on any veterinarian requiring the production of any evidence in the veterinarian's possession or under the veterinarian's control, such veterinarian may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced. The district court, upon application by the board or by the veterinarian subpoenaed, shall have jurisdiction to issue an order:

(A) Requiring such veterinarian to appear before the board or the board's duly authorized agent to produce evidence relating to the matter under investigation; or

(B) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

(b) The powers of the board are granted to enable the board to effectively supervise the practice of veterinary medicine and are to be construed liberally in order to accomplish such objective.

History: L. 1969, ch. 261, § 8; L. 1980, ch. 155, § 6; L. 1987, ch. 201, § 1; L. 1993, ch. 129, § 8; L. 1999, ch. 25, § 5; July 1.

47-822. Fees for examinations, registrations, inspections, licenses and renewals. (a) The fee for an application for a license to practice veterinary medicine in this state, as required by K.S.A. 47-824, and amendments thereto, shall be not less than \$50 nor more than \$250.

(b) The annual fee for renewal of license required under K.S.A. 47-829, and amendments thereto, shall be not less than \$20 nor more than \$100.

(c) The fee for each examination for licensure as required by K.S.A. 47-825, and amendments thereto, shall not be less than \$50 nor more than \$500.

(d) The fee for an application for registration of a registered veterinary technician as provided in K.S.A. 47-821, and amendments thereto, shall be not less than \$20 nor more than \$50.

(e) The annual fee for renewal of registration of a registered veterinary technician as provided in K.S.A. 47-821, and amendments thereto, shall be not less than \$5 nor more than \$25.

(f) The fee for an application for registration of a premises required under K.S.A. 47-840, and amendments thereto, shall be not less than \$50 nor more than \$150.

(g) The fee for renewal of registration of a premises required under K.S.A. 47-840, and amendments thereto, shall be not less than \$10 nor more than \$50.

(h) A late fee of no more than \$50 may be assessed to a person requesting registration of a premises.

(i) The fee for inspection or reinspection of a premises required to be registered under K.S.A. 47-840, and amendments thereto, shall be not less than \$50 nor more than \$150.

(j) The board shall determine annually the amount necessary to carry out and enforce the provisions of this act and shall fix by rules and regulations the fees established in this section within the limitations provided in this section.

History: L. 1969, ch. 261, § 9; L. 1980, ch. 155, § 7; L. 1982, ch. 224, § 1; L. 1987, ch. 201, § 2; L. 1993, ch. 129, § 9; L. 2001, ch. 30, § 2; July 1.

47-824. Application for license; issuance of license;

qualifications. (a) Any person desiring a license to practice veterinary medicine in this state shall make written application to the board on forms provided for that purpose. The board shall issue a license to practice veterinary medicine to an applicant who:

(1) Is a graduate of a school of veterinary medicine as defined in K.S.A. 47-816 and amendments thereto or possesses a certificate issued by the educational commission for foreign veterinary graduates (ECFVG);

(2) has passed the examination or examinations prescribed by the board;

(3) has passed the Kansas veterinary legal practice examination;

(4) is a person of good moral character;

(5) has paid the license application fee and when applicable, the examination fee as established pursuant to this section; and

(6) provides other information and proof as the board may establish by rules and regulations.

(b) If the applicant graduated from a school of veterinary medicine more than five years prior to the year in which the application is submitted, the application shall show proof that:

(1) The applicant has actively practiced veterinary medicine for at least 3,000 hours during the three years immediately preceding such application; or

(2) the applicant has passed the examination or examinations prescribed by the board within the five years preceding such application.

(c) If an applicant is found not qualified for a license pursuant to subsection (a)(1) or (a)(4), the executive director

of the board shall notify the applicant in writing of such findings and the grounds therefor. An applicant found unqualified pursuant to subsection (a)(1) or (a)(4) may request a hearing on the question of the applicant's qualification under the procedure set forth in the Kansas administrative procedure act. Any applicant who is found not qualified shall forfeit any application fee which the applicant has paid.

History: L. 1969, ch. 261, § 11; L. 1980, ch. 155, § 8; L. 1984, ch. 313, § 75; L. 1988, ch. 243, § 1; L. 1993, ch. 129, § 10; L. 1999, ch. 25, § 6; July 1.

47-825. Examinations; rules and regulations; notice of results; recordation and issuance of license. (a) The board shall provide for at least one examination during each year and may provide for such additional examinations as are necessary. A person desiring to take an examination shall make application at least 60 days before taking the examination.

(b) The preparation, administration and grading of the examination shall be governed by the rules and regulations prescribed by the board. Examinations shall be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in schools of veterinary medicine and the laws and rules and regulations dealing with the practice of veterinary medicine in Kansas. The board may adopt and use the examinations prepared by any national testing service for veterinary medicine. The examination of applicants for license to practice veterinary medicine shall be conducted according to methods deemed by the board to be the most practical and expeditious to test the applicant's abilities and qualifications. The minimum passing scores shall be established by rules and regulations.

(c) After each examination, the executive director shall notify each examinee in writing of the result of the examinee's examination within 60 days, and the board shall issue a license to each applicant for a license who has successfully completed the examination. The executive director shall record each new license and issue a license to each new licensee. Any person failing an examination shall be admitted to any subsequent examination on payment of the examination fees. Any applicant for examination who does not attend the examination shall forfeit the examination fee.

History: L. 1969, ch. 261, § 12; L. 1980, ch. 155, § 9; L. 1993, ch. 129, § 11; L. 1999, ch. 25, § 7; L. 2001, ch. 30, § 3; July 1.

47-829. Licenses; expiration; renewal; continuing education requirements. (a) All licenses shall expire annually on June 30 of each year but may be renewed by registration with the board and payment of the license

renewal fee established and published by the board, pursuant to the provisions of K.S.A. 47-822, and amendments thereto. On June 1 of each year, the executive director shall mail a notice to each licensed veterinarian that the veterinarian's license will expire on June 30 and provide the veterinarian with a form for license renewal.

(1) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in Kansas or any other state, territory or the District of Columbia, and has not violated any of the provisions of the Kansas veterinary practice act. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline or violation.

(2) The board, as part of the renewal process, may make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

(b) A license may be renewed upon payment of the renewal fee as required by this section and the provision of satisfactory evidence that the licensee has participated in a minimum of 20 clock hours of continuing education. The burden of proof for showing such participation in continuing education hours shall be the responsibility of the licensee. The continuing education requirement may be waived for impaired veterinarians, as defined by subsection (c) of K.S.A. 47-846, and amendments thereto, and may be waived for veterinarians while they are on active military duty with any branch of the armed services of the United States during a time of national emergency which shall not exceed the longer of three years or the duration of a national emergency.

(c) All veterinarian licenses shall expire annually and must be renewed by making application to the board and payment of the license renewal fee. Any person who practices veterinary medicine after the expiration of such person's license and willfully or by neglect fails to renew such license shall be practicing in violation of this act. Any license renewal application which is submitted beyond the annual renewal date shall be assessed a penalty fee not to exceed \$100 as established by the board by rules and regulations. In the event that the application for renewal of any veterinarian license has not been submitted within 60 days of the expiration date of such license, the board shall notify the veterinarian by certified mail, return receipt requested, that the license has expired and shall not be reinstated unless such veterinarian submits an application for and requalifies for a new license and pays the license application fee not to exceed \$250 as established by the board by rules and regulations.

(d) The board, by rules and regulations, may waive the payment of the license renewal fee of a licensed veterinarian

during the period when such veterinarian is on active military duty with any branch of the armed services of the United States during a time of national emergency which shall not to exceed the longer of three years or the duration of a national emergency.

History: L. 1969, ch. 261, § 16; L. 1980, ch. 155, § 13; L. 1993, ch. 129, § 13; L. 1999, ch. 25, § 8; July 1.

47-830. Grounds for revocation or suspension of license or other restrictions. The board, in accordance with the provisions of the Kansas administrative procedure act, may revoke or suspend for a time certain the license of, or otherwise limit, condition, reprimand, restrict, deny a license or assess a fine, not to exceed \$2,000, to any licensed veterinarian for any of the following reasons:

- (a) The employment of fraud, misrepresentation or deception in obtaining a license;
- (b) an adjudication of incapacity by a court of competent jurisdiction;
- (c) for having professional connection with or lending one's name to any illegal practitioner of veterinary medicine and the various branches thereof;
- (d) false or misleading advertising;
- (e) conviction of a felony;
- (f) failure to furnish to the board, upon written request, any report or information relating to any investigation;
- (g) employing, contracting with or utilizing in any manner any person in the unlawful practice of veterinary medicine;
- (h) fraud or dishonest conduct in applying, treating or reporting diagnostic biological tests of public health significance or in issuing health certificates;
- (i) failure of the veterinarian who is responsible for the operation and management of a veterinary premises to keep the veterinary premises in compliance with minimum standards established by rules and regulations as to sanitary conditions and physical plant;
- (j) failure to report as required by law, or making false report of any contagious or infectious disease;
- (k) dishonesty or negligence in the inspection of foodstuffs;
- (l) cruelty or inhumane treatment to animals;
- (m) disciplinary action taken by another state, territory or district of the United States or any foreign country on grounds other than nonpayment of registration fees;
- (n) disclosure of any information in violation of K.S.A. 47-839, and amendments thereto;
- (o) unprofessional conduct as defined in rules and regulations adopted by the board includes, but is not limited to, the following:

(1) Conviction of a charge of violating any federal statutes or any statute of this state, regarding substances as defined in K.S.A. 65-4101, and amendments thereto;

(2) using unless lawfully prescribed, prescribing or administering to oneself or another person any of the controlled substances as defined in K.S.A. 65-4101, and amendments thereto, or using, prescribing or administering any of the controlled substances as defined in K.S.A. 65-4101 and amendments thereto or alcoholic beverages or any other drugs, chemicals or substances to the extent, or in such a manner as to be dangerous or injurious to a person licensed under the Kansas veterinary practice act, to oneself or to any other person or to the public, or to the extent that such use impairs the ability of such person so licensed to conduct with safety the practice authorized by the license;

(3) the conviction of more than one misdemeanor or any felony involving the use, consumption or self-administration of any of the substances referred to in this section or any combination thereof; and

(4) violation of or attempting to violate, directly or indirectly, any provision of the Kansas veterinary practice act or any rules and regulations adopted pursuant to such act;

(p) conviction of a crime substantially related to qualifications, functions or duties of veterinary medicine, surgery or dentistry;

(q) employment of anyone but a veterinarian licensed in Kansas to demonstrate the use of biologics in the treatment of animals;

(r) fraud, deception, negligence or incompetence in the practice of veterinary medicine;

(s) the use, prescription, administration, dispensation or sale of any veterinary prescription drug or the prescription of an extra-label use of any over-the-counter drug in the absence of a valid veterinarian-client-patient relationship;

(t) failing to furnish details or copies of a patient's medical records or failing to provide reasonable access to or a copy of a patient's radiographs to another treating veterinarian, hospital or clinic, upon the written request of and authorization from an owner or owner's agent, or failing to provide the owner or owner's agent with a summary of the medical record within a reasonable period of time and upon proper request by the owner or owner's agent, or failing to comply with any other law relating to medical records; or

(u) determination that the veterinarian is impaired, as defined in subsection (c) of K.S.A. 47-846 and amendments thereto, by a representative of the impaired veterinarian committee, or as determined by the board after a hearing.

History: L. 1969, ch. 261, § 17; L. 1984, ch. 313, § 76; L. 1991, ch. 153, § 1; L. 1993, ch. 129, § 14; L. 1999, ch. 25, § 9; July 1.

47-832. Reinstatement of revoked or suspended license. Any person whose license is suspended or revoked pursuant to K.S.A. 47-830 and amendments thereto may, at the discretion of the board, be relicensed or reinstated at any time, by majority vote of the board on written application made to the board showing cause justifying relicensing or reinstatement and on such terms and conditions as specified by the board.

History: L. 1969, ch. 261, § 19; L. 1999, ch. 25, § 10; July 1.

47-834. Prohibition against practice without license; criminal penalties; remedies of board. (a) No person who shall practice veterinary medicine without a currently valid license may receive any compensation for services so rendered, except for persons exempted under K.S.A. 47-817 and amendments thereto.

(b) Any person who shall practice veterinary medicine without a license or operate a veterinary premises without registering with the board shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$250 nor more than \$2,000 or imprisoned for not more than 90 days, or both. Each act of such unlawful practice shall constitute a distinct and separate offense.

(c) The board may order the remedying of any violations of any provision of this act or any rules and regulations of the board. The board may issue a cease and desist order upon board determination that a licensee, registrant or any veterinarian has violated any provision of this act or any rules and regulations of the board. The board may bring an action to enjoin any veterinarian from practicing veterinary medicine without a currently valid license or from operating a veterinary premises without registering such premises with the board. If the court finds that the person is violating this act, it shall enter an injunction restraining such person from such unlawful acts.

(d) The board may order the remedying of any violations of any provision of this act or any rules and regulations adopted thereunder and the board may issue a cease and desist order upon board determination that a licensed veterinarian or the holder of a premises registration has violated any order of the board, any provision of this act and any rules and regulations adopted thereunder.

(e) The successful maintenance of an action based on any one of the remedies set forth in this section shall in no way prejudice the prosecution of an action based on any other of the remedies.

History: L. 1969, ch. 261, § 21; L. 1980, ch. 155, § 16; L. 1993, ch. 129, § 15; L. 1999, ch. 25, § 11; July 1.

47-835. Abandonment of animals; notice to owner; relief from liability for disposal; "abandoned" defined. (a) Any

animal placed in the custody of a licensed veterinarian for treatment, boarding or other care, which shall be unclaimed by its owner or its owner's agent for a period of more than ten (10) days after written notice by registered or certified mail, return receipt requested, is given the owner or the owner's agent at such person's last known address, shall be deemed to be abandoned and may be turned over to the nearest humane society, or dog pound or disposed of as the custodian may deem proper.

(b) The giving of notice to the owner, or the agent of the owner, of such animal by the licensed veterinarian, as provided in subsection (a) of this section, shall relieve the licensed veterinarian and any custodian to whom such animal may be given of any further liability for disposal. Such procedure by a licensed veterinarian shall not constitute grounds for disciplining procedure under this act.

(c) For the purpose of this act, the term "abandoned" shall mean to forsake entirely, or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or its owner's agent. Such abandonment shall constitute the relinquishment of all rights and claims by the owner to such animal.

History: L. 1969, ch. 261, § 22; L. 1980, ch. 155, § 17; July 1.

47-836. Lien for veterinary services; preference. A veterinarian, a veterinary partnership or a veterinary corporation offering veterinary service to animals in the field or otherwise, who shall, at the request of the owner or lawful possessor of any animal or animals, bestow any professional attention, care, vaccines, antisera, virus, antibiotics, or other medical treatment, food or service upon the same shall have a lien upon such animal or animals for the just and reasonable charges therefor, and may hold and retain possession of such animal until such charges are paid, but such lien shall be valid if the veterinarian recorded a verified notice of the lien upon such animal or animals in the office of the register of deeds in the county in which such veterinary services were rendered prior to the expiration of 60 days after such services were rendered. The possessory lien hereby created shall have preference over any and all other liens or encumbrances upon such animal or animals, regardless of where such veterinary service has been rendered. The nonpossessory lien created under this section shall have preference over any and all other liens or encumbrances upon such animal or animals, except for possessory liens under K.S.A. 58-207 and 58-220, and amendments thereto, and previously perfected security interests, regardless of where such veterinary service has been rendered. A lien under this section may not be enforced against a subsequent purchaser of the animal treated unless

the purchaser has received actual prior notice of the existence of such lien.

History: L. 1969, ch. 261, § 23; L. 1988, ch. 188, § 1; July 1.

47-837. Savings clause. The amendments in this act to the Kansas veterinary practice act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this act.

History: L. 1969, ch. 261, § 24; L. 1993, ch. 129, § 16; July 1.

47-838. Severability. If any clause, sentence, paragraph, section or part of the Kansas veterinary practice act or the application thereof to any person or circumstances shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, and the application thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence or paragraph, section or part thereof involved in the controversy, in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the legislative intent that this act would have been enacted had such unconstitutional or invalid provisions not been included.

History: L. 1969, ch. 261, § 25; L. 1993, ch. 129, § 17; July 1.

47-839. Confidentiality; exceptions; waiver. (a) Except as otherwise provided under K.S.A. 47-622 and 47-624, and amendments thereto, a veterinarian licensed under the Kansas veterinary practice act shall not disclose any information concerning the veterinarian's care of an animal except on written authorization or other waiver by the veterinarian's client or on appropriate court order or subpoena. Any veterinarian's releasing information under written authorization or other waiver by the client or under court order or subpoena shall not be liable to the client or any other person. The privilege provided by this section shall be waived to the extent that the veterinarian's client or the owner of the animal places the veterinarian's care and treatment of the animal or the nature and extent of injuries to the animal at issue in any civil or criminal proceeding. The privilege provided by this section shall also be waived in relation to any investigation by the board and any subsequent administrative disciplinary action brought by the board.

(b) This section shall be part of and supplemental to the Kansas veterinary practice act.

History: L. 1991, ch. 153, § 2; L. 1999, ch. 25, § 12; July 1.

47-840. Registration of veterinary premises; application; inspections; renewals. (a) Any person who owns or operates any veterinary premises as defined by subsection (k) of K.S.A. 47-816 and amendments thereto, shall be registered by the board.

(b) Any premises shall be inspected and registered by the board prior to the opening of such premises. Any existing premises changing ownership on or after the effective date of this act shall be inspected and registered by the board within 60 days of such change of ownership. Upon receipt of the application for registration and payment of the application fee and inspection fee, as established in K.S.A. 47-822, and amendments thereto, the board shall cause such premises to be inspected by an authorized agent of the board. The registration of the premises shall be issued if the premises meet minimum standards established by board rules and regulations as to sanitary conditions and physical plant. In lieu of the above procedure, the board may register a premises which is accredited by a recognized organization whose standards are found by the board to meet or to exceed the minimum standards as established by board rules and regulations.

(c) Each application for a registration of the veterinary premises shall set forth the name of the licensed veterinarian who will be responsible for the operation and management of the premises and shall be accompanied by the fee established pursuant to subsection (g) of K.S.A. 47-822 and amendments thereto. The registration shall not be issued unless a licensed veterinarian is so named in the application. The application may be denied if disciplinary action has been taken by the board against the veterinarian's license. The registrant shall notify the board within 30 days of any change in the licensed veterinarian who is responsible for the operation and management of the veterinary premises.

(d) The board shall deny any application for a registration of the premises when the inspection reveals that the premises does not meet the minimum standards established by board rules and regulations or other provisions of this act; in which event the applicant shall pay the inspection fee for each additional reinspection required to determine whether or not the premises has been brought into compliance with the minimum standards and other provisions of this act.

(e) The board, after notice and hearing as provided for and conducted in accordance with the Kansas administrative procedure act, may revoke, suspend, place on probation, or take other disciplinary actions as authorized under this act, against the registrant if an inspection reveals that the premises does not meet the minimum standards established by board rules and regulations or that the premises is being operated or managed by any person other than a licensed

veterinarian whose license is in good standing with the board.

(f) The board may cause a premises to be inspected or reinspected upon receipt of a written, signed complaint that such premises is not being operated, managed or maintained in accordance with the provisions of this section and upon a finding by the board that there is reason to believe the premises is not in compliance with the provisions of this act. Nothing contained herein shall be construed as preventing the board from conducting unannounced inspections of any premises without a finding of reasonable cause for the purpose of ascertaining whether or not such premises is in compliance with the provisions of this act.

(g) Application for and acceptance of a registration of the premises by an applicant shall be deemed as express consent for allowing the board or the board's authorized agent to conduct inspections to ensure compliance with this act or to investigate alleged complaints. All such inspections may be conducted with or without notice to the registrant. Inspections shall occur during normal business hours for the premises. Such consent and authority is to be clearly set forth in the application for registration and subscribed thereto by the applicant.

(h) All registrations shall expire annually and must be renewed by making application to the board and payment of the registration fee. Any renewal application which is submitted more than 30 days beyond the annual renewal date shall be assessed a penalty fee as established by board rules and regulations. In the event that application for renewal of registration has not been submitted within 30 days of its expiration date, and after notice by certified mail, return receipt requested, has been given to the registrant that the renewal application and fee is due, such registration of the premises shall automatically expire without a hearing and shall not be renewed unless a new registration application is submitted and the applicant pays the registration and inspection fees. Any such premises which has its registration automatically expired under this subsection must be reinspected prior to the issuance of a new registration.

(i) Each registrant shall have a policy which addresses emergency and after-hour veterinary services and shall inform each client of the policy. If the policy changes, the registrant shall notify clients of the new policy.

(j) Each registrant shall keep such registration conspicuously displayed in the premises for which it is issued.

(k) Inspections or reinspections required under this section shall not be conducted by members of the board.

History: L. 1993, ch. 129, § 19; L. 1999, ch. 25, § 13; July 1.

47-841. Veterinarian not liable for good faith volunteer actions. (a) Any licensed Kansas veterinarian or licensed veterinarian resident of another state or in the District of Columbia who in good faith as a volunteer and without fee renders emergency care or treatment to an animal shall not be liable in a suit for damages as a result of such veterinarian's acts or omissions which may occur during such emergency care or treatment, nor shall such veterinarian be liable to any animal hospital for such hospital's expense if under such emergency conditions such veterinarian orders an animal hospitalized or causes admission to such hospital.

(b) Any licensed veterinarian who in good faith renders or attempts to render emergency care at the scene of an accident or emergency to the human victim or victims thereof shall not be liable for any civil damages as a result of any act or omission by such persons rendering or attempting to render the emergency care.

History: L. 1993, ch. 129, § 20; July 1.

47-842. License revocation or suspension; notice; hearing; fines. The board may revoke or suspend for a certain time the license of any person to practice veterinary medicine or any branch thereof in this state after notice and hearing for any of the causes provided in the Kansas veterinary practice act. In addition to the board's authority to suspend or revoke a license, the board shall have the authority to assess a fine not in excess of \$2,000 against a licensee for any of the causes specified in K.S.A. 47-830, and amendments thereto. Such fine may be assessed in lieu of or in addition to a suspension or revocation. The proceedings under this act shall be conducted in accordance with the Kansas administrative procedure act, and the board shall have all the powers granted therein. All fines collected pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. Actual costs related to investigation, adjudication and enforcement shall be deducted and credited to the veterinary examiners fee fund.

History: L. 1993, ch. 129, § 21; L. 1999, ch. 25, § 14; L. 2001, ch. 5, § 166; July 1.

47-843. Violation of act; civil citation; penalties. (a) If, upon completion of an investigation, the executive director has probable cause to believe that a veterinarian violated the provisions of the Kansas veterinary practice act, in lieu of proceedings pursuant to K.S.A. 47-830 and amendments thereto, the executive director may issue a citation to the veterinarian, as provided in this section. The investigation shall include attempts to contact the veterinarian to discuss

and resolve the alleged violation. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Kansas veterinary practice act alleged to have been violated. In addition, each citation may contain an order of abatement fixing a reasonable time for abatement of the violation, and may contain an assessment of a civil penalty not in excess of \$2,000. The citation shall be served upon the veterinarian by any type of mailing requiring a return receipt. Before any citation may be issued, the executive director shall submit the alleged violation for review and investigation to at least two designees of the board who are veterinarians licensed in or employed by the state. Upon conclusion of the board designee's review, the designees shall prepare a finding of fact and a recommendation. If the board's designees conclude that probable cause exists that the veterinarian has violated any provisions of the Kansas veterinary practice act, a civil citation shall be issued to the veterinarian, according to policies adopted by the board through rules and regulations.

(b) The board shall adopt rules and regulations covering the assessment of civil penalties under this section which give due consideration to the appropriateness of the penalty with respect to the following factors:

- (1) The gravity of the violation;
- (2) the good faith of the person being charged; and
- (3) the history of previous violations.

History: L. 1993, ch. 129, § 22; L. 1999, ch. 25, § 15; July 1.

47-844. Civil citation; notice to contest; procedures; disciplinary actions and civil penalties. (a) If a veterinarian desires to contest administratively a civil citation or the proposed assessment of a civil penalty such veterinarian, within 30 days after service of the citation, shall notify the executive director in writing of such veterinarian's request for an informal conference with the executive director or the executive director's designee. The executive director or the executive director's designee, within 60 days from the receipt of the request, shall hold an informal conference. At the conclusion of the informal conference, the executive director may affirm, modify or dismiss the citation or proposed assessment of a civil penalty, and the executive director shall state with particularity in writing the reasons for the action, and shall immediately transmit a copy thereof to the board, the veterinarian, and the person who submitted the complaint. If the veterinarian desires to contest administratively a decision made after the informal conference, such veterinarian shall inform the executive director in writing within 30 days after such person receives the decision resulting from the informal conference. If the veterinarian fails to notify the executive director in writing that such veterinarian intends to contest the citation or the

proposed assessment of a civil penalty or the decision made after an informal conference within the time specified in this section, the citation or the proposed assessment of a civil penalty or the decision made after an informal conference shall be deemed a final order of the board and shall not be subject to further administrative review. Notwithstanding any other provision of law, where a fine is paid to satisfy an assessment based on the findings of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(b) A veterinarian, in lieu of contesting a citation pursuant to this section, may transmit to the board the amount assessed in the citation as a civil penalty, within 30 days after service of the citation. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged.

(c) If a veterinarian has notified the executive director within 30 days of the issuance of the assessment or citation that such veterinarian intends to contest the decision made after the informal conference, the board shall hold a hearing to be held in accordance with the Kansas administrative procedure act. After the hearing, the board shall issue a decision, based on findings of fact, affirming, modifying, or vacating the citation, or directing other appropriate relief which shall include, but need not be limited to, a notice that the failure of a veterinarian to comply with any provision of the board's decision constitutes grounds for suspension, or denial of licensure, or both. The proceedings under this section shall be conducted in accordance with the Kansas administrative procedure act and the board shall have all the powers granted therein.

(d) After the exhaustion of the review procedures provided for in this section, the board may bring an action pursuant to the act for judicial review and civil enforcement of agency action to enforce any order issued pursuant to this section.

(e) Failure of the licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. When a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(f) All civil penalties received under this act shall be deposited in the state general fund following payment of all costs related to investigation, adjudication and enforcement which shall be credited to the veterinary examiners fee fund.

History: L. 1993, ch. 129, § 23; L. 1999, ch. 25, § 16; July 1.

47-845. Construction of act. Nothing in this act shall be construed as forbidding or further restricting any merchant or

manufacturer from selling at such person's regular place of business, medicines, pharmaceutical products, biological products, feed additives, feed, appliances or other products used in the prevention or treatment of animal diseases or any person from selling or applying any pesticide, insecticide or herbicide.

History: L. 1993, ch. 129, § 24; July 1.

47-846. Definitions. As used in this act:

(a) "Board" means the state board of veterinary examiners.

(b) "Committee" means an executive or review committee of a state professional society or organization or an impaired veterinarian committee.

(c) "Impaired veterinarian" means a veterinarian who is unable to practice veterinary medicine with reasonable skill and safety due to physical or mental disabilities, including deterioration through the aging process, loss of motor skill or abuse of drugs or alcohol.

(d) "Veterinarian" means an individual licensed to practice veterinary medicine in this state.

History: L. 1989, ch. 155, § 1; July 1.

47-847. Reports relating to impaired veterinarians;

board or committee investigation. (a) Any person may report to the board or to an appropriate state professional society or organization of veterinarians any information such person may have relating to an alleged impaired veterinarian. If the report is made to the appropriate state professional society or organization, such society or organization shall refer the matter to an impaired veterinarian committee duly constituted pursuant to the society's or organization's bylaws. The committee shall investigate all such reports and take appropriate action.

(b) If information concerning an alleged impaired veterinarian is reported to the board, the board may investigate the report or may refer the report to an impaired veterinarian committee.

(c) The impaired veterinarian committee referred to in subsection (a) shall submit to the board, on a form promulgated by such board, at least once every three months, a report summarizing the reports received pursuant [to] this section. The report shall include the number of reports concerning impaired veterinarians, whether an investigation was conducted and any action taken.

(d) If the board determines that the impaired veterinarian committee referred to in subsection (a) is not fulfilling its duties under this section, the board, upon notice and an opportunity to be heard, may require such state professional society or organization to transfer to the board all reports made pursuant to this section to such state professional society or organization.

History: L. 1989, ch. 155, § 2; July 1.

47-848. Same; board agreement with committee; responsibilities; evaluations; restricted license; immunity from civil liability for report or investigation; diagnostic examination. (a) The board may refer reports under K.S.A. 47-847, and amendments thereto, and other reports or complaints filed with such board which relate to impaired veterinarians to an impaired veterinarian committee of the appropriate state professional society or organization.

(b) The board shall have the authority to enter into an agreement with the impaired veterinarian committee of the appropriate state professional society or organization to undertake those functions and responsibilities specified in the agreement and to provide for payment therefor from moneys appropriated to the agency for that purpose. Such functions and responsibilities may include any or all of the following:

- (1) Contracting with providers of treatment programs;
- (2) receiving and evaluating reports of suspected impairment from any source;
- (3) intervening in cases of verified impairment;
- (4) referring impaired veterinarians to treatment programs;

- (5) monitoring the treatment and rehabilitation of impaired veterinarians;

- (6) providing posttreatment monitoring and support of rehabilitated impaired veterinarians; and

- (7) performing such other activities as agreed upon by the board and the impaired veterinarian committee.

(c) The impaired veterinarian committee shall develop procedures in consultation with the board for:

- (1) Periodic reporting of statistical information regarding impaired veterinarian program activity;

- (2) periodic disclosure and joint review of such information as the board considers appropriate regarding reports received, contacts or investigations made and the disposition of each report;

- (3) immediate reporting to the board of the name and results of any contact or investigation regarding any impaired veterinarian who is believed to constitute an imminent danger to the public or to self;

- (4) reporting to the board, in a timely fashion, any impaired veterinarian who refuses to cooperate with the impaired veterinarian committee or refuses to submit to treatment, or whose impairment is not substantially alleviated through treatment, and who in the opinion of the committee exhibits professional incompetence; and

- (5) informing each participant of the impaired veterinarian committee of the procedures, the responsibilities of participants and the possible consequences of noncompliance.

(d) If the board has reasonable cause to believe that a veterinarian is impaired, the board may cause an evaluation of such veterinarian to be conducted by the impaired veterinarian committee or its designee for the purpose of determining if there is an impairment. The impaired veterinarian committee or its designee shall report the findings of its evaluation to the board.

(e) An impaired veterinarian may submit a written request to the board for a restriction of such veterinarian's license. The board may grant such request for restriction and shall have authority to attach conditions to the licensure of the veterinarian to practice within specified limitations. Removal of a voluntary restriction on licensure to practice shall be subject to the statutory procedure for reinstatement of license.

(f) Notwithstanding any other provision of law, a state professional society or organization and the members thereof shall not be liable to any person for any acts, omissions or recommendations made in good faith while acting within the scope of the responsibilities imposed pursuant to this section.

(g) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the board. If the board requires a licensee to submit to such an examination, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.

History: L. 1989, ch. 155, § 3; L. 1993, ch. 129, § 18; July 1.

47-849. Same; contents of; reports, records and proceedings confidential and privileged. (a) The reports and records made pursuant to K.S.A. 47-847 or 47-848, and amendments thereto, shall be confidential and privileged, including:

(1) Reports and records of executive or review committees of a professional society or organization;

(2) reports and records of the board or impaired veterinarian committee of a professional society or organization; and

(3) reports made pursuant to this act to or by any committee or any consultant.

Such reports and records shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in any civil or administrative action other than a disciplinary proceeding by the board.

(b) No person in attendance at any meeting of an executive or review committee of a state professional society or organization while such committee is engaged in the duties imposed by K.S.A. 47-847 and amendments thereto shall be compelled to testify in any civil, criminal or

administrative action, other than a disciplinary proceeding by the board, as to any committee discussions or proceedings.

(c) No person in attendance at any meeting of an impaired veterinarian committee shall be required to testify, nor shall the testimony of such person be admitted into evidence, in any civil, criminal or administrative action, other than a disciplinary proceeding by the board, as to any committee discussions or proceedings.

(d) Nothing in this section shall limit the authority, which may otherwise be provided by law, of the board to require an executive or review committee or officer or impaired veterinarian committee to report to the board any action or recommendation of such committee or officer or to transfer to the board records of such committee's or officer's proceedings or actions. Reports and records so furnished shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in evidence in any judicial or administrative proceeding other than a disciplinary proceeding by the board.

(e) A committee or officer may report to and discuss its activities, information and findings with other committees or officers without waiver of the privilege provided under this section, and the records of all such committees or officers relating to such report shall be privileged as provided under this section.

History: L. 1989, ch. 155, § 4; July 1.

47-850. Immunity from civil liability for report or investigation, limits. No person or entity which, in good faith, reports or provides information or investigates any veterinarian as authorized by K.S.A. 47-847 or 47-848, and amendments thereto, shall be liable in a civil action for damages or other relief arising from the reporting, providing of information or investigation except upon clear and convincing evidence that the report or information was completely false, or that the investigation was based on false information, and that the falsity was actually known to the person making the report, providing the information or conducting the investigation at the time thereof.

History: L. 1989, ch. 155, § 5; July 1.

47-851. Failure to report; immunity from civil liability.

(a) No person or entity shall be subject to liability in a civil action for failure to report as authorized by K.S.A. 47-847 or 47-848, and amendments thereto.

(b) In no event shall a professional society or organization or impaired veterinarian committee be liable in damages for the alleged failure to properly investigate or act upon any report made pursuant to K.S.A. 47-847 and amendments thereto.

History: L. 1989, ch. 155, § 6; July 1.

47-852. Employer retribution for reporting; prohibition; remedy. (a) No employer shall discharge or otherwise discriminate against any employee for making any report pursuant to K.S.A. 47-847 or 47-848, and amendments thereto.

(b) Any employer who violates the provisions of subsection (a) shall be liable to the aggrieved employee for damages for any wages or other benefits lost due to the discharge or discrimination plus a civil penalty in an amount not exceeding the amount of such damages. Such damages and civil penalty shall be recoverable in an individual action brought by the aggrieved employee. If the aggrieved employee substantially prevails on any of the allegations contained in the pleadings in an action allowed by this section, the court, in its discretion, may allow the employee reasonable attorney fees as part of the costs.

History: L. 1989, ch. 155, § 7; July 1.

47-853. Purpose of reporting impaired veterinarians; status of entities conducting programs; antitrust immunity. (a) The legislature of the state of Kansas recognizes the importance and necessity of protecting the public from impaired veterinarians to help insure the provision of quality veterinary services. The provisions of this act effectuate this policy.

(b) Veterinarians, review, executive or impaired veterinarian committees performing duties under this act for the purposes expressed in subsection (a) shall be considered to be state officers engaged in a discretionary function and all immunity of the state shall be extended to such persons and committees, including that from the federal and state antitrust laws.

(c) Nothing in this section shall be construed to require veterinarians or review, executive or impaired veterinarian committees to be subject to or comply with any other law relating to or regulating state agencies, officers or employees.

History: L. 1989, ch. 155, § 8; July 1.

47-854. Act supplemental to existing law. K.S.A. 47-846 to 47-853, inclusive, shall be supplemental to and a part of the Kansas veterinary practice act.

History: L. 1989, ch. 155, § 9; July 1.